PART IV

Section—1-B.

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 3128—Legis. 3-50-13, dated Bangalore, 23rd January 1951.

Ordered that the accompanying Bill Nos. 109 to 114 namely, the Forward Contracts (Regulation) Bill, 1950, the Code of Criminal Procedure (Amendment) Bill, 1950, the Appropriation (Railways) No. 2 Bill, 1950, the Appropriation (No. 4) Bill, 1950, the Finance Commission (Miscellaneous Provisions) Bill, 1950, and the Administration of Evacuee Property (Second Amendment) Bill, 1950, published in the *Gazette of India*, Part II, Section 2, dated the 30th December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

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*BILL No. 109 OF 1950.

A

BILL

to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith.

BE it enacted by the Parliament as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title, extent and commencement.—(1) This Act may be called the Forward Contracts (Regulation) Act, 1950.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act for different States or areas, and for different goods or classes of goods.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(*a*) "association" means any body of individuals, whether incorporated or not, constituted for the purpose of regulating and controlling the business of the sale or purchase of any goods ;

(*b*) "Commission" means the Forward Markets Commission established under section 3 ;

(*c*) "forward contract" means a contract for the delivery of goods at a future date and which is not a ready delivery contract ;

(*d*) "goods" means every kind of movable property other than actionable claims, money and securities ;

(*e*) "Government security" means a Government security as defined in the Public Debt Act, 1944 (XVIII of 1944) ;

(*f*) "non-transferable specific delivery contract" means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bills of lading, warehouse receipt or any other document of title relating thereto are not transferable ;

(*g*) "option in goods" means an agreement, by whatever name called, for the purchase or sale of a right to buy or sell, or a right to buy and sell, goods in future, and includes a *teji*, a *mandi*, a *teji-mandi*, a *galli*, a put, a call or a put and call in goods ;

(*h*) "prescribed" means prescribed by rules made under this Act ;

(*i*) "ready delivery contract" means a contract which provides for the delivery of goods and the payment of price therefor, either immediately or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise ;

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* The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

(*j*) "recognised association" means an association which is for the time being recognised by the Central Government under section 6 ;

(*k*) "rules", with reference to rules relating in general to the constitution and management of an association, includes in the case of incorporated association its memorandum and articles of association ;

(*l*) "securities" includes shares, scrips, stocks, bonds, debentures, debenture-stocks, or other marketable, securities of a like nature in or of any incorporated company or other body corporate and also Government securities ;

(*m*) "specific delivery contract" means a forward contract which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned ;

(*n*) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract.

CHAPTER II.

THE FORWARD MARKETS COMMISSION.

3. **Establishment and constitution of the Forward Markets Commission.**—(1) The Central Government may, by notification in the Official Gazette, establish a Commission to be called the Forward Markets Commission for the purpose of exercising such functions and discharging such duties as may be assigned to the Commission by or under this Act.

(2) The Commission shall consist of not more than three members appointed by the Central Government of whom the Chairman shall be a full-time member and the others, full-time or part-time as the Central Government may direct, and one of the members of the Commission shall be an officer of the Central Government and another a person having a wide experience in the organisation and working of forward markets in India.

(3) The terms and conditions of service of members of the Commission shall be such as may be prescribed.

4. **Functions of the Commission.**—The functions of the Commission shall be—

(*a*) to advise the Central Government in respect of any matter arising out of the administration of this Act ;

(*b*) to keep forward markets under continuous observation and to draw the attention of the Central Government or of any other prescribed authority to any important development taking place in, or in relation to, such markets and to make recommendations thereon ;

(*c*) to collect and disseminate information regarding the trading conditions in respect of goods to which any of the provisions of this Act is made applicable, including information regarding supply, demand and prices, and to submit to the Central Government periodical reports on the operation of this Act and on the working of forward markets relating to such goods ;

(*d*) to make recommendations with a view to improving the organisation and working of forward markets ; and

(*e*) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed.

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CHAPTER III.

RECOGNISED ASSOCIATIONS.

5. **Application for recognition of associations.**—(1) Any association concerned with the regulation and control of forward contracts which is desirous of being recognised for the purposes of this Act may make an application in the prescribed manner to the Central Government.

(2) Every application made under sub-section (1) shall be accompanied by a copy of the bye-laws for the regulation and control of forward contracts and also a copy of the rules relating in general to the constitution of the association, and, in particular, to—

(*a*) the governing body of such association, its constitution and powers of management and the manner in which its business is to be transacted ;

(*b*) the powers and duties of the office bearers of the association ;

(*c*) the admission into the association of various classes of members, the qualifications of members, and the exclusion, suspension, expulsion and readmission of members therefrom or thereinto ;

(*d*) the procedure for registration of partnerships as members of the association and the nomination and appointment of authorised representatives and clerks.

6. **Grant of recognition to association.**—(1) If the Central Government is satisfied, after making such inquiry as may be necessary in this behalf and after obtaining such further information, if any, as may be required, that the rules and bye-laws of the association are suitable in the interest of the trade and are in the public interest, it may grant recognition to the association in such form as may be prescribed.

(2) Before granting recognition under sub-section (1), the Central Government may, by order, direct,—

(*a*) that there shall be no limitation on the number of members of the association ;

(*b*) that the association shall provide for the appointment by the Central Government of a person, whether a member of the association or not, as its representative on, and of not more than three persons representing interests not directly represented through membership of the association as member or members of, the governing body of such association, and may require the association to incorporate in its rules any such direction and the conditions, if any, accompanying it.

(3) No rules of a recognised association shall be amended except with the approval of the Central Government.

(4) Every grant of recognition under this section shall be published in the Official Gazette.

7. **Withdrawal of recognition.**—If the Central Government is of opinion that any recognition granted to an association under the provisions of this Act should, in the interest of the trade or in the public interest, be withdrawn, the Central Government may, after giving a reasonable opportunity to the association to be heard in the matter, and in consultation with the Commission, withdraw by a notification in the Official Gazette, the recognition granted to the said association :

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Central Government may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contracts outstanding on that date.

8. **Power of Central Government to call for periodical returns or direct inquiries to be made.**—(1) Every recognised association shall furnish to the Central Government such periodical returns relating to its affairs or the affairs of its members as may be prescribed.

(2) Without prejudice to the provisions contained in sub-section (1), where the Central Government considers it expedient so to do, it may, by order in writing,—

(*a*) call upon a recognised association to furnish in writing such information or explanation relating to its affairs or the affairs of any of its members as the Central Government may require, or

(*b*) direct the governing body of such association to make, in association with one or more representatives of the Central Government, an inquiry in relation to its affairs or the affairs of any of its members and submit a report of the result of such inquiry to the Central Government within such time as may be specified in the order.

(3) Where an inquiry in relation to the affairs of a recognised association or the affairs of any of its members has been undertaken under sub-section (2)—

(*a*) every director, manager, secretary or other officer of such association,

(*b*) every member of such association, and

(*c*) if the member of the association is a firm, every partner, manager, secretary or other officer of the firm,

shall be bound to produce before the governing body of the association and representatives of the Central Government associated with the governing body for the purpose of such inquiry, all such books, accounts, correspondence and other documents in his custody or power relating to, or having a bearing on the subject-matter of, such inquiry and also to furnish them with any such statement or information relating thereto as they may require of him, within such time as may be specified.

9. **Furnishing of annual reports to the Central Government by recognised associations.**—(1) Every recognised association shall furnish to the Central Government a copy of its annual report.

(2) Such annual report shall contain such particulars as may be prescribed.

10. **Power of Central Government to direct rules to be made or to make rules.**—(1) Whenever the Central Government considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association in respect of all or any of the matters specified in sub-section (2) of section 5 other than the matter specified in clause (*b*) of sub-section (2) of section 6 within a period of six months from the date of the order.

(2) If any recognised association, against whom an order is issued by the Central Government under sub-section (1), fails or neglects to comply with such order within the period specified in the said sub-section, the Central Government may make the rules or amend the rules made by the recognised association, as the case may be, either in the form specified in the order or with such modification thereof as may be agreed upon between the association and the Central Government.

(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Official Gazette and on such publication shall, notwithstanding anything to the

contrary contained in the Indian Companies Act, 1913 (VII of 1913), or any other law for the time being in force, have effect as if they had been made or amended by the recognised association concerned.

11. Power of recognised association to make bye-laws.—(1) Any recognised association may, subject to the previous approval of the Central Government, make bye-laws for the regulation and control of forward contracts.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(*a*) the opening and closing of markets and the regulation of the hours of trade ;

(*b*) a clearing house for the periodical settlement of contracts and differences thereunder, the delivery of, and payment for, goods, the passing on of delivery orders and for the regulation and maintenance of such clearing house ;

(*c*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house ;

(*d*) fixing, altering or postponing days for settlement ;

(*e*) determining and declaring market rates, including opening, closing, highest and lowest rates for goods ;

(*f*) the terms, conditions and incidents of contracts including the prescription of margin requirements, if any, and conditions relating thereto, and the forms of contracts in writing ;

(*g*) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members or between a commission agent and his constituent, or between a broker and his constituent, or between a member of the recognised association and a person who is not a member, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents and brokers who are not parties to such contracts ;

(*h*) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association ;

(*i*) the method and procedure for the settlement of claims or disputes including the settlement thereof by arbitration ;

(*j*) the levy and recovery of fees, fines and penalities ;

(*k*) the regulation of the course of business between parties to contracts in any capacity ;

(*l*) the fixing of a scale of brokerage and other charges ;

(*m*) the making, comparing, settling and closing of bargains ;

(*n*) the regulation of fluctuations in rates and prices ;

(*o*) the emergencies in trade which may arise and the exercise of powers in such emergencies ;

(*p*) the regulation of dealings by members for their own account ;

(*q*) the limitations on the volume of trade done by any individual member ;

(*r*) the obligation of members to supply such information or explanation and to produce such books relating to their business as the governing body may require.

(3) The bye-laws made under this section may provide that the contravention of any of the provisions thereof shall—

(*a*) make a contract entered into, made or to be performed otherwise than in accordance with the bye-laws, void ; and

(*b*) render the member concerned liable to fine ; or

(*c*) render the member concerned liable to expulsion or suspension from the recognised association or to any other penalty of a like nature not involving the payment of money.

(4) Any bye-laws made under this section shall be subject to such conditions in regard to previous publication as may be prescribed, and when approved by the Central Government, shall be published in the Gazette of India and also in the Official Gazette of the State in which the principal office of the recognised association is situate :

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication, in any case.

12. Power of Central Government to make or amend bye-laws of recognised associations.—(1) The Central Government may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section :

Provided that where the Central Government takes any action under this section on its own motion, it shall do so in consultation with the Commission.

(2) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Official Gazette and also in the Official Gazette of the State in which the principal office of the recognised association is situate, and on such publication the bye-laws so made or amended shall have effect as if they had been made or amended by the recognised association.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised association objects to any bye-laws made or amended under this section by the Central Government on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Central Government for a revision thereof, and the Central Government may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise in consultation with the Commission the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published in the Official Gazette.

(4) The making or the amendment or revision of any bye-laws under this section shall in all cases be subject to the condition of previous publication :

Provided that the Central Government may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

13. Power of Central Government to supersede governing body of recognised association.—(1) Where the Central Government is of opinion that the governing body of any recognised association should be superseded, then notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, in consultation with the Commission and after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification in the Official Gazette, declare the governing body of such association to be superseded, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed may appoint one of such persons to be the chairman and another of such persons to be the vice-chairman ;

Provided that the Central Government may, if it is of opinion that in the interest of the trade or in the public interest, immediate supersession is necessary, by notification similarly published, dispense with the requirement for calling upon the governing body to show cause.

(2) On the publication of a notification in the Official Gazette under sub-section (1), the following consequences shall ensue, namely :—

(*a*) the members of the governing body which has been superseded shall, as from the date of the notification of supersession cease to hold office as such members ;

(*b*) the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded ;

(*c*) all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Central Government may, from time to time, by like notification vary such period.

(4) On the determination of the period of office of any person or persons appointed under this section the recognised association shall forthwith reconstitute a governing body in accordance with its rules :

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1) shall continue to exercise and perform their powers and duties.

(5) On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1) shall vest or revest, as the case may be, in the governing body so reconstituted.

14 Power to suspend business of recognised associations.—If in the interest of the trade or in the public interest the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, direct a recognised association to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification, and may in consultation with the Commission, by like notification extend the said period from time to time.

CHAPTER IV.

Forward Contracts and Options in Goods.

15. Forward contracts in notified goods illegal or void in certain circumstances.—(1) The Central Government may, by notification in the Official Gazette, declare this section to apply to such goods or class of goods as may be specified in the notification, and thereupon every forward contract for the sale or purchase of any goods specified in the notification which is entered into otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) Any forward contract in goods entered into in pursuance of sub-section (1) shall be void, if it has not been entered into in accordance with the bye-laws of the recognised association concerned with the regulation and control of forward contracts in such goods.

(3) No member of a recognised association shall, in respect of any goods specified in the notification under sub-section (1), enter into any contract as a principal with any person other than a member of the recognised association, unless he has secured the written consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he is acting as a principal :

Provided that no such written consent or authority of such person shall be necessary for closing out in accordance with the bye-laws any outstanding contract entered into by the member as a principal with such person if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he is acting as a principal.

16. Consequences of notification under section 15.—Where a notification has been issued under section 15, then notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(*a*) every forward contract for the sale or purchase of any goods specified in the notification, entered into before the date of the notification and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Central Government may fix in this behalf, and different rates may be fixed for different classes of such contracts ;

(*b*) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (*a*), and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

17. Power to prohibit forward contracts in certain cases.—(*1*) The Central Government may, by notification in the Official Gazette, declare that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of any goods or class of goods specified in the notification and to which the provisions of section 15 have not been made applicable, except to the extent and in the manner, if any, as may be specified in the notification.

(*2*) All forward contracts in contravention of the provisions of sub-section (*1*) entered into after the date of publication of the notification thereunder shall be illegal.

(*3*) Where a notification has been issued under sub-section (*1*), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts for the sale or purchase of any goods specified in the notification entered into before the date of the notification and remaining to be performed after the said date as they apply to all forward contracts for the sale or purchase of any goods specified in the notification under section 15.

18. Exclusion of non-transferable specific delivery contracts from Chapters III and IV.—(*1*) Nothing contained in Chapter III or Chapter IV shall apply to non-transferable specific delivery contracts.

(*2*) Notwithstanding anything contained in sub-section (*1*) if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient so to do, it may, by notification in the Official Gazette, declare that all or any of the provisions of Chapters III and IV shall apply to non-transferable specific delivery contracts in respect of such goods or class of goods as may be specified in the notification and may also

specify the area and manner in which and the extent to which all or any of those provisions shall so apply.

19. Prohibition of options in goods.—(*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, all options in goods entered into after the date on which this section comes into force shall be illegal.

(*2*) Any option in goods which has been entered into before the date on which this section comes into force and which remains to be performed, whether wholly or in part, after the said date shall to that extent become void.

CHAPTER V.

PENALTIES AND PROCEDURE.

20. Penalty for contravention of certain provisions of Chapter IV.—(*1*) Any person who enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (*1*) of section 15, section 17 or section 19 shall, on conviction, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(*2*) Any person who enters into any forward contract in contravention of the provisions contained in sub-section (*3*) of section 15 shall on conviction be punishable with fine.

21. Penalty for owning or keeping place used for entering into forward contracts in goods.—Any person who—

(*a*) owns or keeps a place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act and knowingly permits such place to be used for such purposes, or

(*b*) without the permission of the Central Government, organises, or assists in organising, or becomes a member of any association, other than a recognised association, for the purpose of assisting in, entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act, or

(*c*) manages, controls or assists in keeping any place other than that of a recognised association, which is used for the purpose of entering into or making or performing, whether wholly or in part, any forward contracts in contravention of any of the provisions of this Act or at which such forward contracts are recorded or adjusted, or rights or liabilities arising out of such forward contracts are adjusted, regulated or enforced in any manner whatsoever, or

(*d*) not being a member of a recognised association, wilfully represents to, or induces, any person to believe that he is a member of a recognised association or that forward contracts can be entered into or made or performed, whether wholly or in part, under this Act through him, or

(*e*) not being a member of a recognised association or his agent authorised as such under the rules or bye-laws of such association, canvasses, advertises or touts in any manner, either for himself or on behalf of any other person, for any business connected with forward contracts in contravention of any of the provisions of this Act, or

(*f*) joins, gathers, or assists in gathering at any place, other than the place of business specified in the bye-laws of a recognised association, any person or persons for making bids or offers or for entering into or making or performing any forward contracts in contravention of any of the provisions of this Act,

shall, on conviction, be punishable with imprisonment which may extend to three years, or with fine, or with both.

22. Offences by companies.—(*1*) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals ; and

(*b*) "director", in relation to a firm, means a partner in the firm.

23. Certain offences to be cognizable.—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), any offence punishable under sub-section (*1*) of section 20 or section 21 shall be deemed to be a cognizable offence within the meaning of that Code.

24. Jurisdiction to try offences under this Act.—No court inferior to that of a presidency magistrate or a magistrate of the first class shall take cognizance of or try any offence punishable under this Act.

CHAPTER VI.

MISCELLANEOUS.

25. Power to delegate.—The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may in such circumstances and subject to such conditions, if any, as may be specified, be exercised by such officer or authority, including any State Government or officers or authorities thereof as may be specified in the direction.

26. Power to exempt.—The Central Government may, by notification in the Official Gazette, exempt, subject to such conditions and in such circumstances as may be specified in the notification, any contract or class of contracts from the operation of all or any of the provisions of this Act.

27. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding whatsoever shall lie in any court against the governing body or any member, office-bearer or servant of any recognised association or against any person or persons appointed under sub-section (*1*) of section 13 for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or bye-laws made thereunder.

28. Power to make rules.—(*1*) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the objects of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the terms and conditions of service of members of the Commission ;

(*b*) the manner in which applications for recognition may be made under section 5 and the levy of a fee in respect thereof ;

(*c*) the manner in which any inquiry for the purpose of recognising any association may be made and the form in which recognition shall be granted ;

(*d*) the particulars to be contained in the annual reports of recognised associations ;

(*e*) the manner in which the bye-laws to be made, amended or revised under this Act shall, before being so made, amended or revised, be published for criticism ;

(*f*) any other matter which is to be or may be prescribed.

STATEMENT OF OBJECTS AND REASONS.

Forward trading, which normally plays a useful part in evening out price fluctuations, tends in certain situations to exaggerate such fluctuations to the detriment of the interests of both producers and consumers. During the war and the early post-war period, when the shortages of various commodities tended to bring about an undue rise in their prices, the Central Government issued orders under Rule 81 of the Defence of India Rules, prohibiting forward trading in commodities, such as foodgrains, oilseeds, oilcakes, vegetable oils, raw cotton, spices, sugar and bullion. After the Defence of India Act expired, some of these orders, such as those in respect of foodgrains edible oilseeds and oils, raw cotton and spices were kept in force under the Essential Supplies (Temporary Powers) Act, 1946, and similar orders about cotton seed and sugar were issued under the latter Act. In the case of raw cotton only, a general exemption was granted, subject to certain conditions, with respect to forward trading conducted under the auspices of the East India Cotton Association, Bombay.

Among the States, Bombay is the only State which has enacted legislation for the regulation of forward trading. The Bombay Forward Contracts Control Act, 1947, is a comprehensive piece of legislation empowering the State Government to regulate forward trading in commodities and securities and many of the provisions of this Bill have been adapted from that Act. That Act has been brought into force with respect to cotton and bullion. In West Bengal, futures trading in raw jute and jute manufactures is prohibited under the West Bengal Raw Jute Futures Act, 1948 and the West Bengal Jute Goods Act, 1950, respectively, but no legislation has been enacted in that State for the regulation of forward trading in these or any other commodities.

The bans imposed by the Central or the State Governments were only interim measures, since it was never intended permanently to deprive producers and traders of the hedging facilities they need for the satisfactory conduct of their business.

Until the inauguration of the new Constitution, however, the Central Government did not have the power to enact any long-term legislation on an all-India basis, for the regulation of forward trading. This difficulty has now been removed, since, under the new Constitution, the subject of "stock exchanges and futures markets" has been included in the Union list. As a result of this change, the State Governments are no longer competent to enact any fresh legislation with regard to forward markets, and unless the Central legislation on this subject is enacted immediately, the resulting lacuna may prevent desirable action being taken, when needed. The Essential Supplies (Temporary Powers) Act, 1946, does not empower the Central Government to regulate forward trading in any commodity other than an "essential commodity" within the meaning of that Act. Action may be needed not only for prohibiting forward trading in commodities in which it is still taking place, but also for reopening forward trading under regulated conditions, and if circumstances are favourable to such a course, in commodities in which it is now prohibited. The inclusion of the subject in the Union list has now made it possible to take such action on a co-ordinative basis, and it is desirable that the necessary legislation on the subject should be enacted as early as possible. When the Central Act comes into force, the existing State Acts will cease to operate to the extent to which they are inconsistent with the Central Act.

In February, 1950, a draft Bill on this subject was prepared and circulated to State Governments, the Reserve Bank of India, Chambers of Commerce and various other interests concerned in order to elicit their views thereon. In July, 1950, the comments received from various sources were referred to an Expert Committee under the Chairmanship of Mr. A. D. Shroff. The revised Bill now presented takes due account of these comments and the recommendations made by the Expert Committee in regard to the provisions of the Bill. The Government of India also accept in principle the Committee's recommendations in regard to the practical operation of this measure, though their application to individual cases will have to be decided in the light of experience and the circumstances of each case.

The Bill provides for the regulation of forward trading, the prohibition of options and for matters connected therewith. Transactions on stock exchanges have been excluded from the scope of this Bill, since the problem of regulating stock exchanges has some special features of its own and can best be treated separately. It is considered desirable to prohibit options altogether, since they unduly increase the volume of speculation and have, on the whole, a demoralising effect on the Market.

The regulatory provisions of this Act will be extended by notification to different classes of goods and to different areas as and when it is considered necessary to do so. The main principle underlying these provisions is that forward contracts, other than non-transferable specific delivery contracts, in goods to which the regulatory provisions are made applicable, should be allowed to be entered into only in accordance with the rules and bye-laws of a recognised association. The rules and bye-laws of every recognised association will be subject to the approval of the Central Government. The Central Government will have the power (*a*) to direct any recognised association to amend its rules, (*b*) to amend the bye-laws of such association and (*c*) to appoint one person as the representative of the Central Government,

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and not more than three persons representing interests not directly represented through the membership of the association, as member or members of governing body of such association. The Central Government will also have the power to call upon a recognised association to furnish information or explanation and also to direct the governing body of the association to institute an inquiry, regarding the affairs of the association or those of any of its members, and to associate one or more Government representatives with such inquiry. In emergencies, the Central Government may have to suspend the business of a recognised association, and in certain extreme cases, to supersede the governing body of a recognised association, or even to withdraw recognition. Where the exclusion of non-transferable specific delivery contracts from the regulatory provisions of the Act is found to have led to abuses, it will be necessary to make any or all of those provisions applicable to such contracts. It is considered desirable that these powers should be available if it becomes necessary to use them.

In order to assist the Central Government in the exercise of these powers and in the administration of the Act generally and to provide for a continuous study of the problems relating to forward markets; it is considered desirable that a Commission, to be called "The Forward Markets Commission" should be established. The Commission will also assist the Central Government in co-ordinating the action taken and the policies pursued by the various authorities to whom the Central Government may have to delegate some of the powers conferred upon it by this Act.

NEW DELHI;
The 12th December, 1950.

SRI PRAKASA.

Notes on clauses

Clause 2.—Forward contracts are of three kinds: futures contracts, transferable specific delivery contracts and non-transferable specific delivery contracts. It will be seen from clause 2(*c*) read with clause 18 that the scheme of regulation embodied in this Bill will normally apply to transferable specific delivery contracts as well as futures contracts, since in many trades the former class of contracts can also be used as futures contracts for all practical purposes. Non-transferable specific delivery contracts, however, cannot normally be used for speculative purposes and Chapters III and IV of the Act will ordinarily not apply to such contracts. Government will have the powers (*a*) under clause 26, to exempt transferable specific delivery contracts, where their inclusion is likely to cause unnecessary hardships or inconvenience to the trade concerned, and (*b*) under sub-clause (2) of clause 18, to impose such regulation as it may deem fit on non-transferable specific delivery contracts, where there is evidence that their exclusion from the scheme has encouraged practices likely to defeat the purposes of the Act.

Clauses 3 and 4.—In order to assist the Central Government in the administration of the Act and to provide for a continuous study of the problems relating to forward markets, it is considered desirable that a Commission, to be called "Forward Markets Commission", should be established. The Commission will also assist the Central Government in co-ordinating the action taken and the policies pursued by the various authorities to whom the Central Government may have to delegate some of the powers conferred upon it by this Act. It has been provided in several clauses that the powers conferred by those clauses shall be exercised in consultation with the Commission.

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Clauses 5, 6 and 7 provide for the grant of recognition to and withdrawal of recognition from associations concerned with the regulation and control of forward contracts. Recognition will be granted only to a limited number of associations. Before granting recognition, care will be taken to see that the rules of admission do not exclude any section of the trade whose participation is necessary or desirable in the interests of the trade. Provision is also made for securing Government representation on the governing bodies of recognised associations.

Clause 10 gives power to the Central Government to direct any recognised association to make or amend any rules in relation to any matter specified in clause 5(2) other than the matter specified in clause 6(2) (*b*).

Clauses 11 and 12.—The bye-laws of a recognised association from the chief instrument for controlling the activities of its members. Power is therefore, assumed by the Central Government under clause 12 to amend the bye-laws of a recognised association, wherever necessary, but where any action is taken by the Central Government *suo motu*, consultation with the Commission will be necessary.

Clauses 13 and 14 contain necessary powers for the supersession of the governing body of a recognised association or to suspend the business of a recognised association in emergencies.

Clause 15.—Where associations have been recognised under clause 6 in respect of a commodity in any area and clause 15 is brought into force with respect to that commodity and in that area, no forward contract will be allowed to be entered into in respect of that commodity and in that area except by or through a member of a recognised association. The clause also provides that any forward contract entered into in contravention of the bye-laws of the recognised association shall be void. A member of a recognised association acting for a non-member should not act as a principal except with the written consent of the non-member.

Clause 17 empowers Government to prohibit forward contracts in any commodity to which clause 15 has not been made applicable. Similar powers are contained in the Essential Supplies (Temporary Powers) Act, 1946, but they are limited to the essential commodities specified in that Act. The power to prohibit forward contracts may have to be exercised in situations in which excessive speculation is found to be taking place, but it is not possible to control it because of want of adequate machinery for control. Such prohibition will be withdrawn as and when the necessary arrangements are made to regulate forward contracts in the commodity concerned. Where forward trading has to be prohibited even in respect of a commodity to which clause 15 has been made applicable, the necessary action can be taken under clause 14 or clause 7.

Clause 18 excludes non-transferable specific delivery contracts from the application of this Act, unless specifically provided otherwise. See the note on clause 2.

Clause 19 prohibits option in goods. It is considered that options unduly increase the volume of speculation and have a demoralising effect on the market.

Clause 23 makes certain offences under the Act cognizable.

Clause 26.—This power is necessary. It was provided in the Forward Contracts (Prohibition) Orders issued under the Defence of India Rules and was utilised to deal with special cases.

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FINANCIAL MEMORANDUM

The Forward Contracts (Regulation) Bill contemplates the setting up of a Forward Markets Commission to assist the Central Government in the administration of the proposed Act and to provide for a continuous study of the problems relating to forward markets. The Commission will also assist the Central Government in co-ordinating the action taken and the policies pursued by the various authorities to whom the Central Government may have to delegate some of the powers conferred upon it by this Act.

2. The Commission is to consist of three members of whom the Chairman is to be a full-time member and the others full-time or part-time as may be decided. Apart from the full-time Chairman and a part-time non-official member there will be a part-time official member for whom no additional expenditure will be involved. The Commission will also have a small office staff. The cost involved will be about Rs. 25,000 (non-recurring) to set up the office, and a recurring expenditure of about Rs. one lakh per annum.

The following Bills were introduced in Parliament on the 21st December 1950 :—

BILL No. 110 OF 1950

A

BILL

further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows :—

1. Short title and commencement.—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1950.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Substitution of "India" for "the States" in Act V of 1898.—In the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), for the words "the States", wherever they occur, the word "India" shall be substituted.

3. Amendment of Section 1, Act V of 1898.—In sub-section (2) of section 1 of the said Code,—

(*i*) for the words and letter "whole of India except Part B States," the words "whole of India except the States of Jammu and Kashmir and Manipur" shall be substituted;

(*ii*) for the words "Presidency of Fort St. George", the words "State of Madras" shall be substituted; and

(*iii*) for the words "Presidency of Bombay", the words "State of Bombay" shall be substituted.

4. Amendment of section 4, Act V of 1898.—In sub-section (1) of section 4 of the said Code,—

(*i*) for clause (*j*), the following clauses shall be substituted, namely :—

'(*i*) "High Court", in relation to the Andaman and Nicobar Islands, means the High Court in Calcutta, and, in relation to any other local area, means the highest court of criminal appeal for that area (other than the Supreme Court) or, where no such court is established under any law for the time being in force, such officer as the State Government may appoint in this behalf;

(*j*) "India" means the territories to which this Code extends ;' ;

(*ii*) clause (*tt*) shall be omitted.

5. Amendment of section 25, Act V of 1898.—In section 25 of the said Code, the words and letter "except Part B States" shall be omitted.

6. Amendment of section 30, Act V of 1898.—In section 30 of the said Code,—

(*i*) for the words "Punjab, Delhi, Oudh, the Central Provinces, Coorg and Assam" the words "Assam, Madhya Pradesh, Punjab, Oudh, Madhya Bharat, Mysore, Patiyala and East Punjab States Union and Rajasthan, in all Part C States" shall be substituted ;

(*ii*) for the word and figure. "section 29", the words and figures "section 28 or section 29" shall be substituted.

7. Amendment of section 45, Act V of 1898.—In clause (*ii*) of sub-section (2) of section 45 of the said Code, for the words "by the Central Government or the Crown Representative in any part of India" the words "by the Central Government outside India" shall be substituted.

8. Amendment of section 54, Act V of 1898.—In sub-section (1) of section 54 of the said Code,—

(*i*) in clause *sixthly*, the words and figures "declared under the Indian Extradition Act, 1903, to be a unit, desertion from which is an extradition offence" shall be omitted ;

(*ii*) in clause *seventhly*, the words and figures "or under the Fugitive Offenders Act, 1881" shall be omitted.

9. Substitution of new Part E in Chapter VI, Act V of 1898.—In Chapter VI of the said Code, for Part E consisting of sections 93A, 93B and 93C, the following shall be substituted, namely :—

'*E.—Special Rules regarding Processes in certain cases.*

93A. *Special Rules regarding processes in certain cases.*—(1) In this section, the expression "internal court" means any court in the territories to which this Code extends, and the expression "external court" means any court established or continued by the authority of the Central Government in exercise of its foreign jurisdiction or any court in the State of Jammu and Kashmir or in the State of Manipur.

(2) Where an internal court desires that a summons to, or a warrant for the arrest of, an accused person issued by it shall be executed at any place within the local limits of the jurisdiction of an external court, it may send such summons or warrant, in duplicate, by post or otherwise, to the presiding officer of that court to be served or executed ; and where any such summons has been so served, the provisions of section 74 shall apply in relations to such summons as if the presiding officer of the external court to whom it is sent were a magistrate in the territories to which this Code extends.

(3) Where an internal court has received for service of execution a summons to, or a warrant for the arrest of, an accused person issued by an external court, it shall cause the same to be served or executed as if it were a summons or warrent received by it from another internal court for service or execution within the local limits of its jurisdiction ; and where any such warrant of arrest has been so executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 85 and 86.'

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10. Amendment of section 194, Act V of 1898.—In sub-section (1) of section 194 of the said Code, for the word "order" the word "law" shall be substituted.

11. Insertion of new section 197A in Act V of 1898.—After section 197 of the said Code, the following section shall be inserted, namely :—

'197A. *Prosecution of Rulers of former Indian States.*—(1) In this section—

(*a*) "former Indian State" means any such Indian State as the Central Government may, by notification in the Official Gazette, specify for the purposes of this section ;

(*b*) "Ruler", in relation to a former Indian State, means the person who for the time being is recognised by the President as the Ruler of that State for the purposes of the Constitution.

(2) No court shall take cognizance of any offence alleged to have been committed by the Ruler of a former Indian State except with the previous sanction of the Central Government.

(3) The provisions of sub-section (2) of section 197 shall apply in relation to the prosecution and trial of the Ruler of a former Indian State as they apply in relation to the prosecution and trial of a Judge.'

12. Amendment of section 266, Act V of 1898.—In section 266 of the said Code for the words and letter "for a Part A State" the words and letters "for a Part A State or a Part B State" shall be substituted.

13. Amendment of section 267, Act V of 1898.—In section 267 of the said Code, for the word "order" the word "law" shall be substituted.

14. Amendment of section 320, Act V of 1898.—In clause (*aa*) of section 320 of the said Code, the words and letters "Part A State or Part C" shall be omitted.

15. Amendment of section 321, Act V of 1898.—In sub-section (2) of section 321 of the said Code, the words "and if the person is an European or an American, the list shall mention the race to which he belongs" shall be omitted.

16. Amendment of sections 364 and 365, Act V of 1898.—In sections 364 and 365 of the said code, for the words and letter "for a Part A State", the words and letters "for a Part A State or a Part B State" shall be substituted.

17. Amendment of section 369, Act V of 1898.—In section 369 of the said Code, the words and letter "for a Part A State" shall be omitted.

18. Amendment of section 371, Act V of 1898.—In sub-section (3) of section 371 of the said Code, after the words "by a Sessions Judge", the words "or a Judge of a High Court in the exercise of its original jurisdiction" shall be inserted.

19. Amendment of section 411A, Act V of 1898.—In sub-sections (1) and (2) of section 411A of the said Code, for the words "in the Letters Patent of any High Court" the words "in the Letters Patent or law by which the High Court is constituted or continued" shall be substituted.

20. Amendment of section 426, Act V of 1898.—In sub-section (3) of section 426 of the said Code, the words "penal servitude" shall be omitted.

21. Substitution of new sections for sections 503 to 508A, Act V of 1898.—For sections 503 to 508A, inclusive, the following sections shall be substituted, namely :—

"503. *When attendance of witness may be dispensed with and commission issued.*—(1) Whenever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a High Court, court of session, district magistrate or presidency magistrate that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such court of magistrate may dispense with attendance and may issue a commission for the examination of the witness in accordance with the provisions of this Chapter.

(2) Whenever, in the course of an inquiry, trial or other proceeding under this Code before any magistrate other than a district magistrate or presidency magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such magistrate shall apply to the district magistrate stating the reasons for the application ; and the district magistrate may either issue a commission in the manner hereinafter provided or reject the application.

504. *Commission to whom to be issued.*—(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the district magistrate or chief presidency magistrate, as the case may be, within the local limits of whose jurisdiction the witness is to be found.

(2) If the witness is in India, but in an area to which this Code does not extend, the commission shall be directed to such court or officer as the Central Government may by notification in the Official Gazette, specify in this behalf.

(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such court or officer, and sent to such authority for transmission, as the Central Government may, by notification in the Official Gazette, prescribe in this behalf.

505. *Execution of commissions.*—(1) Upon receipt of the commission, the district magistrate, or such magistrate of the first class as he may appoint in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant cases under this Code.

(2) Upon receipt of the commission, the chief presidency magistrate, or such presidency magistrate subordinate to him as he may appoint in this behalf, may compel the attendance of, and examine, the witness as if he were a witness in a case pending before himself.

506. *Parties may examine witnesses.*—(1) The parties to any proceeding under this Code in which a commission is issued may respectively forward any interrogatories in writing which the court or magistrate directing the commission may think relevant to the issue, and it shall be lawful for the magistrate, court or officer to whom the commission is directed, or to whom the duty of executing it is delegated, to examine the witness upon such interrogatories.

(2) Any such party may appear before such magistrate, court or officer by pleader, or if not in custody, in person, and may examine cross-examine and re-examine (as the case may be) the said witness.

507. *Return of commission.*—(1) After any commission issued under section 503 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court or magistrate issuing the commission; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872 (I of 1872), may also be received in evidence at any subsequent stage of the case before another court.

508. *Adjournment of proceeding.*—In every case in which a commission is issued under section 503, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

508A. *Execution of foreign commissions*—(1) The provisions of section 505 and so much of section 506 and section 507 as relates to the execution of a commission and its return shall apply in respect of commissions issued by any of the courts, judges or magistrates hereinafter mentioned as they apply to commissions issued under section 503.

(2) The courts, judges and magistrates referred to in sub-section (1) are—

"(*a*) any such court, judge or magistrate exercising jurisdiction within an area in India to which this Code does not extend, as the Central Government may, by notification in the Official Gazette, specify in this behalf : and

(*b*) any court, judge or magistrate exercising jurisdiction in any such country or place outside India as the Central Government may, by notification in the Official Gazette, specify in this behalf, and having authority, under the law in force in that country or place, to issue commissions for the examination of witnesses in relation to criminal matters."

22. Amendment of section 554, Act V of 1898.—In sub-section (1) of section 554 of the said Code, for the words and letter "for a Part A State", the words and letters "for a Part A State or a Part B State" shall be substituted.

23. Amendment of section 558, Act V of 1898.—In section 558 of the said Code, after the words and letter "Part A State" the words and letter "or a Part B State" shall be substituted.

24. Amendment of Schedule II, Act V of 1898.—In Schedule II of the said Code, under the heading "Offences against other laws," in the fifth column relating to the second item, after the words "Except in cases" the words "not relating to fire-arms" shall be inserted.

25. Repeals and savings.—(1) If immediately before the day on which this Act comes into force in a Part B State there is in force in that State any law which corresponds to the said Code, such corresponding law shall on that day stand repealed but not so as to restore any jurisdiction or form of procedure not then existing or followed or to render unlawful the continuance of any confinement which is then lawful.

(2) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any corresponding law hereby repealed shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding provision of the said Code.

(3) The provisions of the said Code shall apply to all proceedings instituted after the coming into force of the said Code in any Part B State and, so far as may be, to all cases pending in any criminal court in that State when the said Code comes into force therein.

STATEMENT OF OBJECTS AND REASONS.

The Code of Criminal Procedure, 1898, extends at present only to Part A and Part C States. Each of the Part B States has its own Code or Codes which, although drawn on practically the same lines as the Code of 1898, operate as distinct and separate laws. One particularly inconvenient result of this multiplicity of Codes is that the warrants and summonses issued by a Court in a Part A State or Part C State against an accused person cannot be executed or served in a Part B State, and *vice versa*, without recourse to extradition proceedings which are entirely inappropriate. Furthermore, it is obviously desirable that criminal procedure throughout the country should be regulated by a single law. The main object of this Bill is to provide such a law by extending the Code of 1898 to Part B States and repeal the corresponding laws now in force in those States.

The opportunity has been taken to insert in the Code a provision designed to protect the Rules of Indian States from vexatious criminal proceedings. Before the 15th August 1947, these Rulers enjoyed, even outside their States, complete immunity from criminal proceedings in any court on principles of international comity. Covenants and agreements executed by them since that date guarantee to them all the personal privileges which were enjoyed by them immediately before the 15th August 1947, and this guarantee has been incorporated in article 362 of the Constitution. It is proposed in clause 11 of the Bill to make a statutory provision in the Code to the effect that no court shall take cognizance of any offence alleged to have been committed by a Ruler except with the previous sanction of the Central Government. While giving the Government of India full discretion to let the law of the land have its course in appropriate cases this provision will enable them to safeguard the Rulers' privileges so far as possible.

The Bill also makes a few other amendments in the Code of a minor and formal character which are explained in the notes on clauses.

NEW DELHI;
The 18th December, 1950.

JAWAHARLAL NEHRU.

NOTES ON CLAUSES.

Clause 4.—The present definition of High Court in section (1) (j) of the Code is slightly defective in that it does not expressly exclude the Supreme Court which is the highest court of criminal appeal or revision in the whole of India. The definition has accordingly been revised to remove

this defect, and also to provide that the High Court for the Andaman and Nicobar Islands in regard to criminal matters will be the High Court in Calcutta.

Clause 6.—A provision corresponding to section 30 of the Code now exists in the Criminal Procedure Codes of Madhya Bharat, Mysore, Patiala and East Punjab States Union, and Rajasthan. The territorial references in section 30 have accordingly been revised to include these four States and also all Part C States.

Clause 9.—Existing sections 93A, 93B and 93C of the Code have been formally revised and simplified so as to provide for the service or execution of summonses and warrants of arrest on a reciprocal basis between the States of Jammu and Kashmir and Manipur on the one hand and the rest of India on the other, as also in regard to courts established by the Central Government outside India in the exercise of foreign jurisdiction (*e.g.*, in Bhutan and Sikkim).

Clauses 10, 13 and 19.—The formal amendments made by these clauses are to include the *laws* by which the various High Courts in Part B States have been constituted.

Clause 15.—The words in section 321(2) of the Code which are sought to be omitted by this clause should have been omitted by the Criminal Law (Removal of Racial Discrimination) Act, 1949.

Clause 18.—Under section 371 of the Code, a session judge passing a sentence of death on an accused person has to inform him of the period of limitation within which he should appeal to the High Court. A Judge of a High Court, however, is not under the same obligation when trying a case in the exercise of the original jurisdiction of the High Court. It is proposed to apply the provisions of section 371 of the Code to Judges of High Courts as well.

Clause 21.—This clause revises the whole of Chapter XI of the Code relating to commissions for the examination of witnesses. Piece-meal amendments made in this Chapter in recent years have rendered the provisions somewhat difficult to follow. In the new section 504(3) corresponding to the existing section 503(2B), a general provision has been made for issue of commissions to *any* country outside India if and when arrangements have been made by the Government of India with the Government of that country.

Clause 24.—In order to have stricter control over offences relating to firearms, it is proposed that all such offences publishable under section 19 of the Indian Arms Act, 1878, should be made non-bailable by amending the relevant entry in Schedule II of the Code.

BILL* No. 111 OF 1950.

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March 1951, for the purposes of railways.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Appropriation (Railways) No. 2 Act, 1950.

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*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

2. Issue of Rs. 21,95,91,000 out of the Consolidated Fund of India for the year 1950-51.—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twenty-one crores, ninety-five lakhs and ninety-one thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March 1951, in respect of the services relating to railways specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March 1951.

SCHEDULE.

(*See* sections 2 and 3.)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Audit ...	1,04,000	...	1,04,000
3	Miscellaneous expenditure ...	16,04,000	...	16,04,000
4	Working Expenses— Administration ...	53,55,000	...	53,55,000
5	Working Expenses— Repairs and Maintenance...	4,42,40,000	...	4,42,40,000
6	Working Expenses— Operating Staff ...	15,71,000	...	15,71,000
7	Working Expenses— Operation (Fuel) ...	1,87,49,000	...	1,87,49,000
8	Working Expenses— Operation other than Staff and Fuel	2,36,01,000	...	2,36,01,000
9	Working Expenses— Miscellaneous Expenses ...	1,20,33,000	...	1,20,33,000
9A	Working Expenses— Labour Welfare ...	15,15,000	...	15,15,000
12A	Open Line Works— (Revenue) Labour Welfare.	68,17,000	...	68,17,000
12B	Open Line Works— (Revenue) Other than Labour Welfare	40,02,000	...	40,02,000
15	Construction of new lines ...	1,01,31,000	...	1,01,31,000
16	Open Line Works— Additions ...	1,53,48,000	...	1,53,48,000
17	Open Line Works— Replacements ...	7,45,21,000	...	7,45,21,000
	GRAND TOTAL ...	21,95,91,000	...	21,95,91,000

STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the monies required to meet the Supplementary grants made by Parliament for expenditure of the Central Government on Railways for 1950-51.

N. GOPALASWAMI.

NEW DELHI;
The 12th December, 1950.

BILL* No. 112 OF 1950

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1951.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Appropriation (No. 4) Act, 1950.

2. **Issue of Rs. 63,99,56,000 out of the Consolidated Fund of India for the year 1950-51.**—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of sixty-three crores, ninty-nine lakhs and fifty-six thousand rupees towards defraying the several charges which will come in course of payment during the year ending on the 31st day of March, 1951, in respect of the services specified in column 2 of the Schedule.

3. **Appropriation.**—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the year ending on the 31st day of March, 1951.

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*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

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SCHEDULE

(*See* section 2)

1	2	3 Sums not exceeding		
No. of vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
2	Union Excise Duties ...	50,00,000	...	50,00,000
5	Stamps ...	8,00,000	...	8,00,000
7	Irrigation (including working expenses), Navigation, Embankment and Drainage Works met from Revenue).	1,20,000	...	1,20,000
8	Indian Posts and Telegraphs Department (including working expenses).	96,80,000	3,20,000	1,00,00,000
9	Cabinet ...	1,05,000	...	1,05,000
13	Ministry of Law ...	15,93,000	...	15,93,000
22	Ministry of Communications	1,43,000	...	1,43,000
25	Ministry of States ...	62,000	...	62,000
28	Ministry of Rehabilitation...	4,30,000	...	4,30,000
28A	Ministry without Portfolio.	20,000	...	20,000
31	Administration of Justice...	65,000	...	65,000
33	Police ...	4,80,000	...	4,80,000
36	Ecclesiastical ...	2,000	...	2,000
37	Tribal Areas ...	5,50,000	...	5,50,000
38	External Affairs ...	36,69,000	...	36,69,000
45	Meteorology ...	1,000	...	1,000
51	Agriculture ...	30,66,000	...	30,66,000
52	Civil Veterinary Services ...	1,000	...	1,000
61	Census ...	22,29,000	...	22,29,000
64	Miscellaneous Departments.	3,59,000	...	3,59,000
65	Currency ...	90,00,000	...	90,00,000
68	Communications (including National Highways).	50,00,000	...	50,00,000
69	Other Civil Works ...	...	7,000	7,000
73	Miscellaneous ...	10,05,000	...	10,05,000
74	Expenditure on Displaced Persons.	7,40,00,000	...	7,40,00,000
75	Defence Services—Effective —Army.	16,55,02,000	...	16,55,02,000
81	Resettlement and Development.	4,61,000	...	4,61,000
84	Delhi ...	77,53,000	...	77,53,000
85	Ajmer ...	15,06,000	...	15,06,000
86	Kutch ...	6,23,000	...	6,23,000
87	Himachal Pradesh ...	18,000	...	18,000

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1	2	3 Sums not exceeding		
No. of vote	Services and purposes	Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
88	Bilaspur ...	25,000	...	25,000
91	Tripura ...	9,74,000	...	9,74,000
92	Andaman and Nicobar Islands.	2,04,000	...	2,04,000
93	Union Public Service Commission.	...	33,000	33,000
94	Capital Outlay on Forests...	8,70,000	...	8,70,000
95	Capital Outlay on Indian Security Press.	3,80,000	...	3,80,000
96	Capital Outlay on Indian Posts and Telegraphs (not met from Revenue).	1,000	...	1,000
98	Capital Outlay on Industrial Development.	52,50,000	...	52,50,000
99	Capital Outlay on Civil Aviation.	55,00,000	...	55,00,000
101	Capital Outlay on Currency.	2,63,50,000	...	2,63,50,000
102	Capital Outlay on Mints ...	12,00,000	...	12,00,000
107	Defence Capital Outlay ...	4,63,68,000	...	4,63,68,000
108	Capital Outlay on Schemes of State Trading.	1,000	...	1,000
109	Capital Outlay on Development.	1,05,00,000	...	1,05,00,000
110	Interest-free and Interest-bearing Advances.	1,00,00,000	23,87,30,000	24,87,30,000
	Grand Total ...	40,08,66,000	23,90,90,000	63,99,56,000

STATEMENT OF OBJECTS AND REASONS.

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the Supplementary expenditure charged on the Consolidated Fund and the grants made by Parliament for expenditure of the Central Government, excluding Railways, for 1950-51.

NEW DELHI;
The 19th December, 1950.

CHINTAMAN D. DESHMUKH.

BILL* No. 113 OF 1950

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BILL

to determine the qualifications requisite for appointment as members of the Finance Commission and the manner in which they shall be selected, and to prescribe their powers.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Finance Commission (Miscellaneous Provisions) Act, 1950.

2. Definition.—In this Act, "the Commission" means the Finance Commission constituted by the President pursuant to clause (1) of article 280 of the Constitution.

3. Qualifications for appointment as, and the manner of selection of, members of the Commission.—The Chairman of the Commission shall be selected from among persons who have had experience in public affairs, and the four other members shall be selected from among persons who—

(*a*) are, or have been, or are qualified to be appointed as Judges of a High Court ; or

(*b*) have special knowledge of the finances and accounts of the Government ;

(*c*) have had wide experience in financial matters and in administration ; or

(*d*) have special knowledge of economics.

4. Personal interest to disqualify members.—Before appointing a person to be a member of the Commission, the President shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially his functions as a member of the Commission ; and the President shall also satisfy himself from time to time with respect to every member of the Commission that he has no such interest and any person who is, or whom the President proposes to appoint to be, a member of the Commission shall, whenever required by the President so to do, furnish to him such information as the President considers necessary for the performance by him of his duties under this section.

5. Disqualifications for being a member of the Commission.—A person shall be disqualified for being appointed as, and for being, a member of the Commission,—

(*a*) if he is of unsound mind ;

(*b*) if he is an undischarged insolvent ;

(*c*) if he has been convicted of an offence involving moral turpitude.

6. Term of office of members and eligibility for reappointment.—Every member of the Commission shall hold office for such period as may be specified in the order of the President appointing him, but shall be eligible for reappointment :

Provided that he may, by letter addressed to the President resign his office.

7. Conditions of service and salaries and allowances of members.—The members of the Commission shall render whole-time or part-time service

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*The President has, in pursuance of clause (3) of Article 117 of the Constitution of India, recommended to Parliament the consideration of the Bill.

to the Commission as the President may in each case specify, and there shall be paid to the members of the Commission such fees or salaries and such allowances as the Central Government may, by rules made in this behalf, determine.

8. Procedure and powers of the Commission.—(1) The Commission shall determine their procedure and in the performance of their functions shall have all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), while trying a suit in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of witnesses ;
(*b*) requiring the production of any document ;
(*c*) requisitioning any public record from any court or office.

(2) The Commission shall have power to require any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

Explanation.—For the purposes of enforcing the attendance of witnesses, the local limits of the Commission's jurisdiction shall be the limits of the territory of India.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to prescribe the qualifications of the Chairman and members of the Finance Commission and to confer upon the Commission certain powers in accordance with the provisions of Article 280 of the Constitution. It is proposed to set up the Commission as soon as possible after the Bill is passed by Parliament.

NEW DELHI ;
The 14th December, 1950.

C. D. DESHMUKH.

NOTES ON CLAUSES.

Clause 3.—This clause prescribes the qualifications of the Chairman and members of the Commission and largely follows the recommendations made by a Committee appointed by the Constituent Assembly to advise on the financial provisions of the draft Constitution.

Clauses 4 and 5.—These lay down the circumstances in which a person will be disqualified from being a member of the Commission.

Clauses 6 and 7.—The clauses provide for the regulation of the tenure of appointment of the members of the Commission, their fees, salaries and allowances, etc.

Clause 8.—This confers on the Commission the powers of a civil court in respect of certain matters to enable them to discharge their functions.

FINANCIAL MEMORANDUM.

Expenditure will be incurred on the Commission when it is set up but it is not possible to give an estimate as the fees, salaries and allowances of the members of the Commission will be fixed under rules to be framed after the Bill has been passed. The programme of work of the Commission will be settled only after it has been set up.

The following Bill was introduced in Parliament on the 22nd December, 1950 :—

BILL No. 114 OF 1950

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BILL

further to amend the Administration of Evacuee Property Act, 1950.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Administration of Evacuee Property (Second Amendment) Act, 1950.

2. Amendment of section 2, Act XXXI of 1950.—In clause (*f*) of section 2 of the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the said Act), after sub-clause (1), the following sub-clause shall be inserted and shall be deemed always to have been inserted, namely :—

"(1A) belonging to a joint stock company of which not less than fifty-one per cent of the shares are held by evacuees, notwithstanding that the registered office of such company is situated in any part of the territories to which this Act extends, or".

3. Substitution of new section for section 17, Act XXXI of 1950.—For section 17 of the said Act, the following section shall be substituted and shall be deemed always to have been substituted, namely :—

"17. *Exemption of evacuee property from processes of court, etc.*—(1) Save as otherwise expressly provided in this Act, no evacuee property which has vested or is deemed to have vested in the Custodian under the provisions of this Act shall, so long as it remains so vested, be liable to be proceeded against in any manner whatsoever in execution of any decree or order of any court or other authority, and any attachment or injunction or order for the appointment of a receiver in respect of any such property subsisting on the commencement of the Administration of Evacuee Property (Second Amendment) Act, 1950, shall cease to have effect on such commencement and shall be deemed to be void.

(2) Where, after the 1st day of March, 1947, any evacuee property which has vested in the Custodian or is deemed to have vested in the Custodian under the provisions of this Act has been sold in execution of any decree or order of any court or other authority, the sale shall be set aside if an application in that behalf has been made by the Custodian to such court or authority on or before the 17th day of October, 1950."

STATEMENT OF OBJECTS AND REASONS.

An agreement was arrived at with the Government of Pakistan in June 1950 according to which property of Joint Stock Companies should be treated as evacuee property if the holders of the majority of shares of such companies have migrated to Pakistan. The existing Administration of Evacuee Property Act, 1950 (XXXI of 1950) does not admit of such property being treated as evacuee property. It is proposed to amend the definition of evacuee property so as to make the property of such companies evacuee property.

2. Section 17 of the Administration of Evacuee Property Act was designed to bar the jurisdiction of civil courts in matters relating to execution of decrees and orders concerning evacuee property. While it was felt that the existing section was comprehensive enough, civil courts have found a lacuna in the section and orders have been issued by some civil courts for appointment of receivers, etc., in respect of evacuee property. Such orders are contrary to the spirit underlying the Administration of Evacuee Property Act and also contrary to the understanding between the Governments of India and Pakistan that evacuee property will not be allowed to be attached, sold, etc., under orders of civil courts. It is proposed to rectify this lacuna by this amending Bill.

NEW DELHI;
The 18*th December*, 1950.

AJIT PRASAD JAIN.

M. N. KAUL,
Secretary.